

SUPPLEMENTARY EXPLANATORY STATEMENT

Issued by authority of the Minister for Energy and Emissions Reduction

Renewable Energy (Electricity) Amendment (Small-scale Solar Eligibility and Other Measures) Regulations 2019

The *Renewable Energy (Electricity) Act 2000* (the Act) establishes the Renewable Energy Target (RET) scheme. The Act provides for exemptions from RET liability for electricity used by businesses undertaking emissions-intensive trade-exposed (EITE) activities.

The *Renewable Energy (Electricity) Amendment (Small-scale Solar Eligibility and Other Measures) Regulations 2019* (the Amendment Regulations) amend the *Renewable Energy (Electricity) Regulations 2001* (the Regulations) to clarify the eligibility of solar (photovoltaic) small generation units and the audit requirements for applications to amend exemption certificates.

The details of the Amendment Regulations are set out in the initial Explanatory Statement.

The purpose of this Supplementary Explanatory Statement is to provide additional information to clarify:

- why decisions made under subregulation 22UG(8) of the Amendment Regulations, relating to whether an applicant for an exemption certificate is required to provide an audit report, are not subject to merit review; and
- whether any persons could be disadvantaged by the potential retrospective operation of section 52 of the Amendment Regulations.

The details are set out in [Attachment A](#).

Part 2—Exemption certificates

Renewable Energy (Electricity) Regulations 2001

Item 12 Subregulation 22UG(4)

Under subregulation 22UG(8) the applicant may apply to the Regulator for a determination that an audit report is not required (i.e. an exemption). This determination has been exempt from merit review on the basis that it is a preliminary or procedural decision.

The decision to require an audit report has no substantive effect on the number of exemption certificates the applicant would be issued, however, the audit assists the Regulator in assessing whether the activities set out in the application comply with the EITE activity requirements set out in Schedule 6 and whether the electricity use method is reasonable. The benefits of the merit review were considered to be outweighed by the cost of potentially frustrating the making of the substantive decision on the issuance of exemption certificates.

Item 32 In the appropriate position in Part 9

This item clarifies that the amendments related to amendments of exemption certificates in Part 2 of Schedule 1 will apply to exemption certificates for 2019 and later years.

No persons will be disadvantaged by the retrospective operation of section 52. At the time the Amendment Regulations commenced, there were no applications to amend 2019 exemption certificates for EITE activities pending. The closing date for new applications for 2019 exemption certificates is 1 April 2019. The new information and audit requirements will only apply in 2019 if a prescribed person makes a subsequent request to amend the issued certificates.